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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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UNITED STATES OF AMERICA

Plaintiff, **DOCKETED**
MAY 30 2008

vs.

No. 07 CR 318
07 CR 319
07 CR 320

DAVID ANTHONY DOWNING, DANIEL FRANCIS)
BERGER, AZAR BEREND NIEKAMP,

Defendants.

Chicago, Illinois
May 21, 2007
3:49 P.M.

TRANSCRIPT OF PROCEEDINGS - Status
BEFORE THE HONORABLE MARTIN C. ASHMAN, Magistrate Judge

APPEARANCES:

For the Government:

HON. PATRICK J. FITZGERALD
219 South Dearborn Street
Chicago, Illinois 60604
BY: MR. STEVEN J. DOLLEAR

For Defendant Downing:

THOMAS M. BREEN AND ASSOCIATES
53 West Jackson Boulevard
Suite 1460
Chicago, Illinois 60604
BY: MR. TODD S. PUGH

For Defendant Berger:

MR. GARY WAITE ADAIR
900 West Jackson Boulevard
Suite 5 East
Chicago, Illinois 60607

FILED

MAY 29 2008 RC

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

PAMELA S. WARREN, CSR, RPR
Official Court Reporter
219 South Dearborn Street
Room 1928
Chicago, Illinois 60604
(312) 294-8907

NOTE: Please notify of correct speaker identification.

8-3

1 **APPEARANCES: (Continued)**

2 For Defendant Niekamp: MR. DANIEL ELI RADAKOVICH
3 900 West Jackson Boulevard
4 Suite 5 East
Chicago, Illinois 60607

5 MR. PATRICK W. BLEGEN
6 53 West Jackson Boulevard
Suite 1362
Chicago, Illinois 60605

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1 (Proceedings held in open court:)

2 THE CLERK: USA versus Downing, Berger, and Niekamp,
3 status hearing.

4 MR. DOLLEAR: Good afternoon, your Honor. Steve
5 Dollear on behalf of the United States. I'm filling in for Ben
6 Langner in the office.

7 MR. ADAIR: Good afternoon, your Honor. Gary Adair,
8 A-d-a-i-r, and I'm asking leave to file my appearance this
9 afternoon on behalf of Daniel Berger, in custody, and to my
10 right.

11 MR. PUGH: Good morning -- good afternoon, your
12 Honor. Todd Pugh, P-u-g-h. I previously had filed my
13 appearance in this case and appeared before you on Saturday for
14 David Downing.

15 MR. BLEGEN: Good afternoon, Judge. Patrick Blegen
16 and Dan Radakovich on behalf of Azar Niekamp. I haven't filed
17 my appearance as of yet; I'll file it electronically today.

18 THE COURT: All right.

19 MR. RADAKOVICH: I'm prepared to as well, Judge.

20 THE COURT: Pardon?

21 MR. RADAKOVICH: I'm prepared to file my appearance
22 electronically.

23 THE COURT: All right.

24 We're here on a status with regard to detention and
25 preliminary examination. Where do we stand?

1 MR. DOLLEAR: Your Honor, the attorneys for the three
2 defendants have had an opportunity to meet.

3 THE COURT: Could you --

4 MR. DOLLEAR: No problem.

5 THE COURT: -- speak into the mic and nice and loud.

6 MR. DOLLEAR: Certainly, your Honor.

7 The government has had an opportunity to meet with the
8 defendants's attorneys prior to this hearing. And for a
9 variety of reasons we'd like to essentially reschedule or set
10 another status date for, my understanding is, detention,
11 identity, and the preliminary examination, with the exception
12 of, I believe, Mr. Adair's client, who I believe is going to
13 waive identity at this time.

14 MR. ADAIR: That's correct, Judge. In my speaking to
15 the government it appears that we're in some negotiations with
16 regards to his release upon his removal to Iowa. He is an U.S.
17 Citizen. The government has indicated it would like to talk to
18 the prosecutors in Iowa from the district where this case is
19 and see if we can come to an agreement as to an appropriate
20 surety in this case. My client's father, mother, and his
21 girlfriend, who would be the third-party custodian are all
22 present here today.

23 And I would like it as early as possible; however,
24 Judge, I'm leaving on Wednesday for a federal bar meeting in
25 Salt Lake City which is going to take me out of town until the

1 beginning of next week.

2 THE COURT: So what do you want me to do?

3 MR. ADAIR: Well, I don't know if the Court could
4 accommodate us. Perhaps by later in the day --

5 THE COURT: I'll accommodate whichever way I can.

6 MR. ADAIR: If there is any way --

7 MR. DOLLEAR: Wednesday morning was what the
8 parties --

9 MR. ADAIR: First thing Wednesday morning, Judge?

10 THE COURT: Wednesday of this week?

11 MR. ADAIR: Yes.

12 MR. DOLLEAR: That's correct, your Honor.

13 THE COURT: 10:00 o'clock.

14 MR. ADAIR: That's fine.

15 MR. DOLLEAR: Fine with the government, your Honor.

16 THE COURT: All right. Now that will be for --

17 MR. ADAIR: Daniel Berger.

18 THE COURT: -- detention.

19 MR. ADAIR: That would be for detention, yes.

20 THE COURT: Only for detention. I think -- I think
21 the other day you waived --

22 MR. ADAIR: I wasn't here, Judge. This is my first
23 appearance.

24 THE COURT: Oh, okay. What about preliminary
25 examination?

1 MR. ADAIR: Waived.

2 THE COURT: And identity?

3 MR. ADAIR: Waived.

4 THE COURT: All right. The identity hearing is
5 waived. The preliminary examination having been waived, the
6 order is that the defendant is remanded to the district court
7 for further proceedings.

8 On detention, 10:00 o'clock, May 23.

9 MR. ADAIR: That you, Judge.

10 THE COURT: All right.

11 Now on the other two defendants.

12 MR. BLEGEN: Is the Wednesday of the following week,
13 actually the 30th?

14 MR. DOLLEAR: Your Honor, for the record that's
15 Mr. Downing and Mr. Niekamp. I think we had talked about
16 Wednesday afternoon. Is that right?

17 THE COURT: Wednesday afternoon at 3:30.

18 MR. BLEGEN: That's fine.

19 MR. DOLLEAR: That's fine for the government, your
20 Honor.

21 THE COURT: Okay. That will be for identity,
22 preliminary examination, and detention.

23 Do both of you waive the three-day detention statutory
24 limit?

25 MR. PUGH: That would be for Mr. Downing, Judge.

1 MR. BLEGEN: Yes, for Mr. Niekamp.

2 THE COURT: All right. That's what we'll do.

3 MR. PUGH: Thank you, your Honor.

4 THE COURT: A week from Wednesday.

5 MR. DOLLEAR: Thank you, your Honor.

6 (Which concluded the proceedings in the above-entitled
7 matter.)

8 C E R T I F I C A T E

9 I hereby certify that the foregoing is a transcript of
10 proceedings before the Honorable Martin C. Ashman on May 21,
11 2007.

12 DATED: November 19, 2007

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